

EXHIBIT D

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OCT 01 2002

CSO 2800

PATENT
Atty Docket No. KLAC0015

#19
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TRANSMITTED
VIA FACSIMILE
SEPTEMBER 27, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

HENRIK NIELSEN, ET AL.

Title: DETECTION SYSTEM FOR
NANOMETER SCALE TOPOGRAPHIC
MEASUREMENTS OF REFLECTIVE
SURFACES

Serial No.: 09/195,533

Filed: NOVEMBER 18, 1998

Group Art Unit: 2877

Examiner: R. Rosenberger

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OFFICE OF PETITIONS

**DECLARATION OF STEVEN W. SMYRSKI IN SUPPORT OF PETITION TO
REVIVE APPLICATION FOR REASONS OF ERRONEOUS ISSUANCE OF
NOTICE OF ABANDONMENT**

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

I, Steven W. Smyrski, do hereby declare as follows:

1. I am attorney of record for the above-entitled action. I have been attorney of record for this matter since it was initially filed with the Patent Office.
2. I recently contacted the Patent Office, and personnel at the Patent Office indicated that a Notice of Abandonment issued for this case in November 2001.

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3. I was employed by Pillsbury Winthrop LLP through July 2001. Since that time I have been employed by Smyrski & Livesay, LLP. After my departure from Pillsbury Winthrop, in or about July 2001, KLA-Tencor Corporation, the assignee of the present application, notified Pillsbury Winthrop that all KLA-Tencor Corporation legal matters formerly handled by Pillsbury were to be transferred to Smyrski & Livesay, LLP. Since that time, Pillsbury Winthrop has diligently forwarded appropriate correspondence, particularly U.S. Patent Office correspondence addressed to me for matters assigned to KLA-Tencor Corporation, to my attention at Smyrski & Livesay, LLP. I believe that as of this date, all pertinent KLA-Tencor Corporation related correspondence from the U.S. Patent Office directed to me at Pillsbury Winthrop has been forwarded to and received by me at Smyrski & Livesay, LLP.

4. I have not received a Notice of Abandonment from the Patent Office for the above-entitled matter at any time at the offices of Smyrski & Livesay, LLP. I have investigated this matter and to my knowledge no one at Smyrski & Livesay, LLP has ever received a Notice of Abandonment for the above-entitled matter from the Patent Office.

5. Furthermore, I have not received a Notice of Abandonment for the above entitled case forwarded to me by Pillsbury Winthrop. I have contacted personnel at Pillsbury Winthrop in charge of forwarding mail to me, and they have stated that they neither recall nor have record of receiving a Notice of Abandonment for the above-entitled matter. The Pillsbury Winthrop personnel stated that had they received such a Notice of Abandonment, they would have forwarded it to me as soon as possible.

6. Based on facts presented in the foregoing paragraphs, I am of the opinion and belief that neither I nor anyone at Pillsbury Winthrop received a Notice of Abandonment for the above-entitled matter at any time.

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date: September 27, 2002


Steven W. Smyrski

SMYRSKI & LIVESAY, LLP
3310 Airport Avenue, SW
Santa Monica, California 90405-6118
Phone: 310.397.9118
Fax: 310.397.9158